

### **REMARKS**

Claims 1-39 remain pending in this application. Reconsideration is requested.

#### **Restriction Requirement**

The restriction requirement is again respectfully traversed and withdrawal of the requirement is again urged. The Office action states that the traversal is not persuasive because “this fails to differentiate the present claims from the prior art cited in the restriction requirement.” Thus, the restriction requirement is clearly improper, as the alleged lack of unity of invention is based not on what is set forth in the various claims, but instead is based on alleged unpatentability over prior art. Unpatentability over prior art has no relevance at all to the asserted lack of unity of invention.

The principle underlying the requirement for unity of invention is analogous to the principle underlying restriction practice: that is, a patent should be directed to a single invention. Whether or not a patent application contains claims that may be unpatentable over prior art has no relation at all with the question of whether the claims of the application are directed to the same invention. The absurdity of basing unity of invention on patentability over prior art is plain. Under such interpretation, a persuasive showing that the claims are patentable over the prior art would obviate the requirement without necessitating any amendment of the claims. Clearly, such has no relevance whatsoever to unity of invention.

37 CFR 1.475(b) provides that “a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories: (1) A product and a process specially adapted for the manufacture of said product.” Here, claims 1-35 and claims 36-39 are related as a product and a process for manufacturing the product respectively. Hence, under the applicable rule, 37 CFR 1.475(b)(1), the present application must be considered to have unity of invention.

In view of this, the restriction requirement is improper as it violates Rule 475(b), and should be withdrawn.

#### **Specification**

Withdrawal of the objection to the abstract of the disclosure is requested. The Office action correctly states that the abstract has been submitted as part of the PCT

application of which the present invention is a U.S. National Stage filing under 35 U.S.C. § 371. Pursuant to 35 U.S.C. § 371(c)(2), applicant need not even file a copy of the international application so long as such has been already communicated by the International Bureau. See also 37 CFR § 1.495(b). Here, Applicant has filed a copy of the international application. Nothing more is required.

### **Indefiniteness Rejections**

The claims have been amended in light of the comments in the rejection based on 35 U.S.C. § 112 second paragraph, to eliminate any issues of indefiniteness that may have existed. Accordingly, reconsideration and withdrawal of these grounds of rejection are requested.

### **35 U.S.C. § 102 Rejections**

The rejection of claims 1, 3-9, 20-32, 34 and 35 as being anticipated by Geyer et al., U.S. Patent No. 4,453,367 is traversed. The invention as claimed is directed to a structure having a first array of a plurality of cellular housing structures bonded together, with a plurality of cellular core structures each disposed within a cellular housing structure. See, e.g., Figs. 1A-1D, housing structure 15, core structure 16, array 1.

Geyer discloses a unitary extruded material 10 (Fig. 1) composed of a plurality of hexagonal walls 14 with apertures 16 (see Fig. 2; col. 1:10-15; col. 3:33-51). There is no identifiable cellular housing structure in Geyer and further no identifiable cellular core structure disposed within a cellular housing structure in Geyer. Instead, Geyer discloses only a single, unitary extruded structure 10, which makes up the core section 34 as shown in Figs. 3 and 4. See col. 3:52-63. As such, Geyer fails to disclose or suggest the invention recited in the claims, and this ground of rejection is improper.

The rejection of claims 1-35 as being anticipated by Colvin, U.S. Patent No. 6,418,832 also is traversed. Colvin discloses body armor, with one embodiment of an energy absorbing layer 200 shown in Figs. 5A-5B wherein a plurality of cells 40 are formed or molded into an internal core member 41. As seen in Fig. 5B, there are no identifiable cellular housing structures bonded together to form an array of housing structures as claimed. Instead, the alternating cells 40 are formed from a single undulating core member 41.

Further, there is disclosed no identifiable cellular core structure disposed within a cellular housing structure. Colvin discloses only that selected numbers and positions of cells 40 are filled with foam material 45. As shown in Fig. 5B, the foam 45 has no defined structure, but instead is a non-structural filling. As such, this ground of rejection also is improper and should be withdrawn.

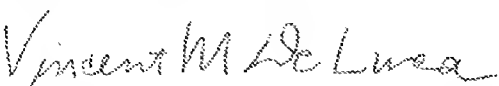
### **35 U.S.C. § 103 Rejections**

The rejection of claims 2, 10-19, 33 and 35 as being unpatentable over Geyer, also is respectfully traversed. The interpretation of Geyer as anticipating the independent claims is incorrect as explained above. Consequently, Geyer cannot render obvious the dependent claims 2, 10-19, 33 and 35, as the rejections of these claims is based on the erroneous interpretation of what is disclosed by Geyer regarding the requirements of the independent claims. Accordingly, reconsideration and withdrawal of this ground of rejection also is requested.

### **Conclusion**

In view of the foregoing, favorable reconsideration of claims 1-39, withdrawal of the outstanding grounds of objection and rejection, and the issuance of a Notice of Allowance of claims 1-39 are earnestly solicited.

Please charge any fee or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Novak Druce Deposit Account No. 14-1437.

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